

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2382 of 2000

with

CIVIL APPLICATION NO. 9479 OF 2000

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT

and

Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed : YES  
to see the judgements?
  2. To be referred to the Reporter or not? : YES
  3. Whether Their Lordships wish to see the fair copy : NO  
of the judgement?
  4. Whether this case involves a substantial question : NO  
of law as to the interpretation of the Constitution  
of India, 1950 of any Order made thereunder?
  5. Whether it is to be circulated to the Civil Judge? : NO

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UNITED INDIA INSURANCE CO LTD.

Versus

HASANBHAI SADIQBHAI GHANCHI (FATHER OF DECD.)

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Appearance:

MR PV NANAVATI for Petitioner

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CORAM : MR.JUSTICE J.N.BHATT

and

MR.JUSTICE K.M.MEHTA

Date of decision: 11/10/2000

ORAL JUDGEMENT

(Per : MR.JUSTICE J.N.BHATT)

This is an appeal under Section 173 of the Motor Vehicles Act, 1988 ('new M.V. Act' for short) challenging the impugned award made under Section 163A of the new M.V. Act whereby the respondent Nos. 1 and 2 original claimants came to be awarded an amount of Rs. 1,52,000/- for unfortunate and untimely, demise of their young minor son aged about 12 years in a road mishap.

2. After having taken into consideration the submissions raised before us and the copies of the documents and oral evidence led by the original claimants and relied upon by the Tribunal, we find no justification in this appeal whereas we are satisfied that, in the facts and peculiar circumstances, the impugned judgement and award is fully justified requiring no interference by us in exercise of power under Section 173 of the new M.V. Act.

3. Before concluding the judgement, we would like to highlight the following aspects which have remained uncontroverted.

1. The deceased Rahimbhai Hasanbhai Ghanchi was the minor son of the original claimants.

2. He was pursuing study.

The Tribunal has taken notional income of Rs. 15,000/- relying upon the provisions of Section 163A and Schedule thereunder and adopted multiplier of 15 and deducting 1/3rd amount towards expenditure of the deceased. The Tribunal has, thus, awarded an amount of Rs. 2,25,000/- (Rs. 15,000 x 15) and after deducting 1/3rd, it comes to an amount of Rs. 1,50,000/-. The Tribunal has awarded Rs. 2,000/- under the head funeral expenses. Thus, the Tribunal has awarded total amount of Rs. 1,52,000/- with interest at the rate of 12% from the date of the claim petition. The Tribunal has given direction for disbursement and investment which requires some modification in view of the peculiar facts and special circumstances obtainable in this case. Since the deceased was 12 years old, he would not be able to contribute to the common family fund or to assist for at least 8 years to come. In the circumstances, the direction for disbursement shall be only in respect of 20% whereas 80% of the total amount shall be invested bearing in mind the celebrated principles of law.

The amount of Rs. 25,000/- deposited before the Registry shall be transmitted to the Tribunal concerned by the Registry for passing appropriate order.

With the observations and directions, the appeal shall stand dismissed with no order as to costs.

In view of the order on the main matter, no orders are passed in the Civil Application.

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